

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

CEMENT MASONS LOCAL 527, et al., )  
Plaintiffs, )  
v. )  
PALAZZOLO CONSTRUCTION, LLC, )  
Defendant. )  
Case No. 4:16-CV-1437 NAB

**MEMORANDUM AND ORDER**

This matter is before the Court on its own motion. Plaintiffs filed this action September 9, 2016. [Doc. 1.] Defendant Palazzolo Construction filed an Answer on November 25, 2016. [Doc. 9.] The parties consented to the undersigned's jurisdiction under 28 U.S.C. § 636(c). [Doc. 14.] A Case Management was entered on December 22, 2016. [Doc. 15.] Plaintiffs filed a Motion for Partial Summary Judgment on March 10, 2017. [Doc. 20.] Defendant did not file a response to Plaintiffs' summary judgment motion. The Court granted Defendant's counsel's motion to withdraw after counsel sought withdrawal due to Defendant's failure to respond to counsel's communication or appear for a deposition. [Docs. 23, 24.] The Court also granted Defendant an extension of time to April 21, 2017 to file a response to the motion for summary judgment and to retain substitute counsel. [Doc. 24.] Defendant never filed a response to Defendant's summary judgment motion and the Court granted the motion on May 26, 2017. [Doc. 25.] Partial judgment in the amount of \$997.12 was entered against Defendant on the same date and the Court also ordered Defendant to submit to an audit. [Doc. 26.]

On July 10, 2017, Plaintiffs filed a status report with the Court that the Defendant had promised to submit documents to Plaintiffs' accountant, but failed to do so. [Doc. 28.] Plaintiffs

then filed a Motion for Contempt and Suggestions in Support. [Doc. 29.] The Court scheduled a hearing on Plaintiffs' Motion for Contempt on August 9, 2017 at 1:30 p.m. [Doc. 30.] The Court also ordered Defendant to file a response to Plaintiffs' motion no later than July 31, 2017, retain counsel, and appear at the August 9th hearing. [Doc. 30.] Defendant did not respond to Plaintiffs' Motion for Contempt, did not retain counsel, and did not appear at the August 9th hearing. [Doc. 33.] The Court granted Plaintiffs' request to continue the hearing on the motion for contempt for 30 days to prepare for filing a motion for default judgment. [Doc. 33.]

Due to Defendant's repeated failure to comply with the Court's orders to obtain counsel and to respond to Plaintiffs' motions, the Court finds that Defendant has failed to defend this action. Therefore, the Court will order the Clerk of Court to issue an entry of default against Defendant under Federal Rule of Civil Procedure 55(a).

**IT IS HEREBY ORDERED** that Plaintiffs' Motion for Entry of Default by the Clerk is **GRANTED** for the reasons stated in this Memorandum and Order. [Doc. 34]

**IT IS FURTHER ORDERED** that the Clerk of Court shall issue a Clerk's entry of default against Defendant Palazzolo Construction, LLC for failure to defend.

**IT IS FURTHER ORDERED** that the contempt hearing set for September 8, 2017 is continued to **September 21, 2017 at 11:00 a.m.**

**IT IS FURTHER ORDERED** that a hearing on Plaintiff's Motion for Default Judgment is set for **September 21, 2017 at 11:00 a.m.**

**IT IS FURTHER ORDERED** that the Clerk of Court shall send a copy of this Order to Defendant Palazzolo Construction, LLC at 11050 Mars Lane, Maryland Heights, Missouri 63042 via UPS Signature Required, in addition to service via regular mail.

Dated this 7th day of September, 2017.

/s/ Nannette A. Baker  
NANNETTE A. BAKER  
UNITED STATES MAGISTRATE JUDGE